

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Phyllis Tate and R.F.,)	
)	C/A No. 3:16-2714-MBS
Plaintiffs,)	
)	
vs.)	
)	O R D E R
State, Department of Social Services,)	
and Richland County Sheriff's)	
Department,)	
)	
Defendants.)	
_____)	

Plaintiffs Phyllis Tate, proceeding pro se and in forma pauperis, filed a complaint on August 3, 2015, alleging Defendants violated her and her daughter's constitutional rights. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Shiva V. Hodges for pretrial handling.

The Magistrate Judge reviewed the complaint pursuant to the provisions of 28 U.S.C. § 1915. On August 12, 2016, the Magistrate Judge issued a Report and Recommendation in which she noted (1) Plaintiff cannot proceed pro se on behalf of her daughter, R.F.; (2) the South Carolina Department of Social Services and Richland County Sheriff's Department are not "persons" amenable to suit under § 1983; and (3) the South Carolina Department of Social Services and Richland County Sheriff's Department are entitled to Eleventh Amendment immunity from being sued in federal court. Accordingly, the Magistrate Judge recommended Plaintiff's complaint be summarily dismissed without prejudice and without issuance and service of process. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court.

Mathews v. Weber, 423 U.S. 261, 270 (1976). This court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. Id. In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court concurs in the recommendation of the Magistrate Judge and incorporates the Report and Recommendation herein by reference. Plaintiff’s complaint is dismissed, without prejudice and without issuance and service of process.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina

September 13, 2016